

Honorable Frank A. Kurtz

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 10 UNITED STATES BANKRUPTCY COURT
 11 EASTERN DISTRICT OF WASHINGTON

12 IN RE:) CHAPTER 7
 13 HERNANDEZ, RAUL and ROCIO) CASE NO. 04-08902
 14)
 15 Debtors,) ADV. NO. 06-80145
 16)
 17 HERNANDEZ, RAUL and ROCIO)
 18) FINDINGS OF FACT AND
 19 Plaintiff,) CONCLUSIONS OF LAW
 20 v.)
 21 BENEFICIAL WASHINGTON, INC.)
 22 a Washington corporation, Defendant.)
 23 _____)

24 Default was entered against defendant BENEFICIAL WASHINGTON, INC. The
 25 plaintiff requested entry of judgment, and the court having held an evidentiary hearing on
 December 10th, 2007, hereby makes the following FINDINGS OF FACT pursuant to FRBP 7052
 and Fed. R. Civ. P. 52:

18 **I. FINDINGS OF FACT**

19 1. The above named debtors, RAUL AND ROCIO HERNANDEZ, filed Chapter 7
 20 Bankruptcy case number 04-08902, in the Eastern District of Washington on December 8, 2004.
 21 Exhibit 1.

22 2. The Debtors listed a debt to BENEFICIAL on their schedule F, unsecured debts.
 23 Exhibit .

24 3. The Defendant was served with the Notice of Commencement of Case, which

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Notified defendant of the Stay, which prohibits collection of the debt during the case.

4. In spite of being served Notice of the Bankruptcy, Defendant continued to make attempts to collect on the debt. The Defendant was contacted by Subreena Slough, Office Manager of The Steinberg Law Firm, on at least two occasions, after February 2, 2005, about the attempts to collect on the debt by Defendant. Subreena Slough advised the Defendant about the bankruptcy. Each time the Defendant advised that they would update their records.

5. On February 5, 2005, and again on March 4, 2005, Mr. Steinberg sent letters to Beneficial, notifying Beneficial of the Bankruptcy of their customers, all to no avail.

6. In spite of being notified, Defendant continued to make collection efforts via telephone, by calling Mr. Hernandez, at one point 4 times in one day in April. This greatly upset Mr. Hernandez, and he thinks about it to this day, and Defendant's actions have caused him emotional distress

7. In addition to the telephone calls, Defendant made written demands for payment, on February 20, 2005, and again on March 20, 2005.

8. On April 1, 2005, This court issued a Discharge of Debts to the Debtors, which was served on Defendant. [Exhibit 7].

9. On April 5, 2005, Defendant attempted to collect the debt again, sending a written notice to the Debtors. The Defendant did this again on April 20 2005, and on May 20, 2005, in addition to the telephone calls referenced earlier.

II. CONCLUSIONS OF LAW

1. Plaintiff has proved that the Defendant has willfully violated the provisions of 11 USC Sec. 362 (a) by attempting to collect the debt, numerous times.

2. Plaintiff has proved that Defendant has also ignored the discharge injunction provided

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1 for at 11 USC Sec. 524 (a)(2), by contacting the debtor 7 times after the discharge was entered,
2 and served upon the Defendant.

3. Plaintiff is entitled to recover damages and attorneys fees pursuant to 11 USC Sec.
4 362(h), and for punishment for violating the discharge injunction in the total amount of
5 \$3,500.00, plus attorney fees in the amount of \$1,620.00. Judgment to be presented separately.
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7 Presented By:

8 STEINBERG LAW FIRM, P.S.

9
10 /s/Charles R. Steinberg _____
11 Charles R. Steinberg, WSBA #23980
Attorney for Debtors
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Frank L. Kurtz
Bankruptcy Judge

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FINDINGS OF FACT AND CONCLUSIONS OF
LAW - 3

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